

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHELSEY GOSSE, CHRISTOPHER)
DETTORE, AND LORI A. DETTORE,)
on their own behalfs and on behalf of) Case No. 3:20-cv-01446-RDM
other similarly situated persons,)
Plaintiffs,)
v.) Electronically Filed
TRANSWORLD SYSTEMS, INC.; U.S.)
BANK NATIONAL ASSOCIATION;)
RATCHFORD LAW GROUP, P.C.;)
PORTNOY SCHNECK, L.L.C.;)
NATIONAL COLLEGIATE STUDENT)
LOAN TRUST 2007-3; NATIONAL)
COLLEGIATE STUDENT LOAN)
TRUST 2007-4; GSS DATA)
SERVICES LLC,)
Defendants.)

**U.S. BANK NATIONAL ASSOCIATION’S MOTION TO DISMISS
PLAINTIFFS’ FIRST AMENDED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant U.S. Bank National Association (“U.S. Bank”) hereby moves to dismiss Counts II, III, and IV of Plaintiffs’ First Amended Complaint. As set forth in the memorandum to be filed within the time prescribed by Middle District Local Rule 7.5, Plaintiffs have not and cannot state cognizable claims against U.S. Bank for violation of the Fair Credit Extension Uniformity Act (“FCEUA”) (Count II), for wrongful use of civil

proceedings under 42 Pa. C.S.A. § 8351, *et seq.* (Count III), or for common-law civil conspiracy (Count IV).

For Count II, Plaintiffs have no private right of action under the FCEUA, and they have no claims under any other statute by which Plaintiffs could assert claims for violation of the FCEUA.

As to Count III, Plaintiffs cannot sufficiently plead all of the elements required to state claims against U.S. Bank for wrongful use of civil proceedings.

Finally, Plaintiffs cannot sufficiently allege that U.S. Bank is liable for civil conspiracy under Count IV. Specifically, Plaintiffs cannot satisfy all of the elements of their civil conspiracy claims, nor do they plead a cognizable predicate tort on which to base their claims. Moreover, any conspiracy claim against U.S. Bank would nevertheless be barred by Pennsylvania's absolute judicial privilege doctrine.

U.S. Bank respectfully requests that the Court enter the attached proposed Order dismissing Plaintiffs' First Amended Complaint as to U.S. Bank with prejudice.

Dated: January 15, 2021

Respectfully submitted,

/s/ Kelly M. Locher
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*Counsel for Defendant U.S. Bank
National Association*

RULE 7.1 CERTIFICATION

Pursuant to Middle District Local Rule 7.1, the undersigned hereby certifies that she sought the Plaintiffs' and Co-Defendants' concurrence on the instant motion. Plaintiffs' counsel did not concur.

/s/ Kelly M. Locher
Kelly M. Locher

*Counsel for Defendant U.S. Bank
National Association*

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of January, 2021, I filed the foregoing with the Clerk of the United States District Court using the CM/ECF system, which will send notification electronically to all counsel of record.

/s/ Kelly M. Locher

Kelly M. Locher

*Counsel for Defendant U.S. Bank
National Association*